

REMARKS

The Official Action of July 10, 2007 rejected the claims on two grounds: under 35 U.S.C. 112, second paragraph, as being indefinite; and under 35 U.S.C. 102(b) as being clearly anticipated by Bunzl U.S. Patent 5,634,295, particularly Fig. 7. Favorable reconsideration of these rejections is respectfully requested in the light of the amendments made to the claims and specification, and the following remarks.

Rejection under 35 U.S.C. 112, second paragraph

In this rejection, the Examiner referred to a number of recitations using the definite article “the” as lacking a clear antecedent, and the recitation “and/or” as being indefinite. While the applicant has no real objection to changing the respective recitations to avoid these objections, it is believed, as will be set forth below, that the present wording is clear and definite to meet the requirements of 35 U.S.C. 112, second paragraph, and that changing the recitations to avoid these technical objections would detract from the clarity, rather than add to it.

Concededly, the use of the definite article “the”, in many instances when reciting a feature, requires a clear antecedent for the feature in order to avoid including a feature by implication which should be positively recited. However, there are many other instances where the use of the definite article “the” does not require antecedent terminology, e.g., where the recitation refers to a characteristic which is obviously and inherently involved in a feature positively recited. It is believed that all the instances referred to by the Examiner in this rejection are of the latter category.

For example, the recitation objected to by the Examiner with respect to Claim 1 refers to “the flow of traffic through said passageway”. To avoid this technical objection

by the Examiner with respect to the definite article “the”, the definite article “the” could be changed to the indefinite article “a”, or could be deleted. It is believed, however, that either of the latter two alternatives would not add to the clarity and definiteness of the claim, but rather would detract from it.

The same comments apply with respect to the recitation of “the outer ends” in Claims 10 and 16. (not in Claim 16 but is in Claim 3)

Since the purpose of 35 U.S.C. 112, second paragraph, is to render the claim definite so that the metes and bounds of the invention can be clearly and definitely set forth, it is submitted that the present language used with respect to these objections to the definite article “the” better meets this purpose of 35 U.S.C. 112, second paragraph, than the alternatives of change “the” to — a —, or deleting it altogether.

With respect to the objection to the phraseology “and/or”, this is mindful of the practice that had been previously followed by many Examiners of holding that a recitation of “two or three” of an element was inherently objectionable under 35 U.S.C. 112, second paragraph, as being alternative. This practice forced the applicants to use a “Markush grouping”, or other convoluted language, such as the recitation of “n” such elements, wherein “n is a whole integer of more than one and less than four”. However, in many decisions of the USPTO Board of Appeals, it was held that, since the essence of 35 U.S.C. 112, second paragraph, is “clarity and definiteness”, such alternative language, when the alternatives are clearly equivalent, is not inherently indefinite.

The Rejection under 35 U.S.C. 102(b)

This rejection was based on Bunzl U.S. Patent 5,634,295, particularly Fig. 7. It is submitted, however, that this was not a proper rejection of the claims as originally worded. In any event, the claims have been amended in order to more sharply distinguish over this reference both under 35 U.S.C. 102 and under 35 U.S.C. 103.

Thus, the invention of the present application relates to a novel door assembly “which can be accommodated within the passageway in a minimum of space both laterally of the passageway, as well as forwardly and rearwardly of the passageway” (paragraph 0005). The door assembly described in Bunzl, however, is for a different purpose, namely “for unblocking a wide passageway in the event of panic or for transposing goods through the revolving door” (Column 1, lines 41–43). The variable-length door wings described in that patent are guided to follow a circular path, (e.g., Fig. 4), or a rectangular path (e.g., Fig. 7). This is to be sharply distinguished from the construction in original Claim 1, last paragraph, reciting that the inner panels assume an outermost position when a respective door section is located perpendicularly to the flow of traffic, and an innermost position when the respective door section is located parallel to the flow of traffic. Such an arrangement is clearly not present in Bunzl.

The Official Action attempts “to explain away” this difference by the statement that one walks through a revolving door in a semi-circular fashion. However, the above recitation in original Claim 1 clearly refers to the “effective” direction of the flow of traffic; otherwise the recitation would have no significance at all.

In any event, to avoid any question, the independent claims have been amended to bring out that the flow of traffic is “along an effective straight line path”, and that the

recited “perpendicular” and “parallel” relationships refer to this “straight line path”. It is submitted therefore, that all the independent claims, as well as their respective dependent claims, clearly distinguish over this patent under 35 U.S.C. 102(b), as well as under 35 U.S.C. 103.

In view of the foregoing, it is believed that this application is now in condition for allowance, and an early Notice of Allowance is respectfully submitted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Martin D. Moynihan".

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